

1 H.810

2 Introduced by Representatives Gamache of Swanton, Savage of Swanton,  
3 Batchelor of Derby, Berry of Manchester, Branagan of Georgia,  
4 Browning of Arlington, Burditt of West Rutland, Canfield of  
5 Fair Haven, Chesnut-Tangerman of Middletown Springs,  
6 Cupoli of Rutland City, Dame of Essex, Dickinson of  
7 St. Albans Town, Forguites of Springfield, Gage of Rutland  
8 City, Hebert of Vernon, Helm of Fair Haven, Higley of Lowell,  
9 Hubert of Milton, LaClair of Barre Town, Lawrence of Lyndon,  
10 Martel of Waterford, Parent of St. Albans Town, Pearce of  
11 Richford, Purvis of Colchester, Russell of Rutland City, Shaw  
12 of Derby, Tate of Mendon, Van Wyck of Ferrisburgh, and  
13 Viens of Newport City

14 Referred to Committee on

15 Date:

16 Subject: Residential rental agreements; court procedure; ejectment

17 Statement of purpose of bill as introduced: This bill proposes to expedite the  
18 eviction process; to permit municipal police officers and constables to serve a  
19 writ of possession and to place a landlord in possession of the premises  
20 following an eviction; to permit a court to decide a motion to pay rent into

1 court without a hearing; and to require defendants in an eviction proceeding to  
2 file a verified answer or an answer supported by an affidavit.

3 An act relating to residential eviction proceedings

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 Sec. 1. 9 V.S.A. § 4467 is amended to read:

6 § 4467. TERMINATION OF TENANCY; NOTICE

7 (a) Termination for nonpayment of rent. The landlord may terminate a  
8 tenancy for nonpayment of rent by providing actual notice to the tenant of the  
9 date on which the tenancy will terminate which shall be at least ~~14~~ seven days  
10 after the date of the actual notice. The rental agreement shall not terminate if  
11 the tenant pays or tenders rent due through the end of the rental period in  
12 which payment is made or tendered. Acceptance of partial payment of rent  
13 shall not constitute a waiver of the landlord's remedies for nonpayment of rent  
14 or an accord and satisfaction for nonpayment of rent.

15 (b) Termination for breach of rental agreement.

16 (1) The landlord may terminate a tenancy for failure of the tenant to  
17 comply with a material term of the rental agreement or with obligations  
18 imposed under this chapter by actual notice given to the tenant at least  
19 ~~30~~ 14 days prior to the termination date specified in the notice.



1 ~~agreement if the tenancy has continued for two years or less. The notice to~~  
2 ~~terminate for no cause shall be at least 60 days before the end or expiration of~~  
3 ~~the term of the rental agreement if the tenancy has continued for more than two~~  
4 ~~years.~~ If there is a written week-to-week rental agreement, the notice to  
5 terminate for no cause shall be at least seven days; however, a notice to  
6 terminate for nonpayment of rent shall be as provided in subsection (a) of this  
7 section.

8 \* \* \*

9 Sec. 2. 12 V.S.A. § 4854 is amended to read:

10 § 4854. JUDGMENT FOR PLAINTIFF; WRIT OF POSSESSION

11 (a) If the court finds that the plaintiff is entitled to possession of the  
12 premises, the plaintiff shall have judgment for possession and rents due,  
13 damages, and costs, and when a written rental agreement so provides, the court  
14 may award reasonable attorney's fees.

15 (b)(1) A writ of possession shall issue on the date judgment is entered,  
16 unless the court for good cause orders a stay.

17 (2) The clerk of the court shall serve the writ on all parties that have  
18 entered an appearance in the proceeding pursuant to Rule 77 of the Vermont  
19 Rules of Civil Procedure. If a defendant has not entered an appearance in the  
20 proceeding, the writ shall direct a police officer or constable of the  
21 municipality or the sheriff of the county in which the property, or a portion

1 thereof, is located to serve the writ upon the defendant. If the police officer or  
2 constable of the municipality or the sheriff of the county is unable to serve the  
3 writ upon the defendant following three attempts to do so, he or she may serve  
4 the writ by leaving a copy of it at the defendant's dwelling.

5 (3) The writ shall direct a police officer or constable of the municipality  
6 or the sheriff of the county in which the property, or a portion thereof, is  
7 located to serve the writ upon the defendant and, no sooner than ten days after  
8 the writ is served, to put the plaintiff into possession no sooner than five  
9 calendar days after the writ is served. Notwithstanding any provision of Rule 6  
10 of the Vermont Rules of Civil Procedure to the contrary, the time period before  
11 a municipal police officer, constable, or sheriff may put a plaintiff into  
12 possession pursuant to a writ issued under this subsection shall include  
13 intermediate Saturdays, Sundays, and legal holidays.

14 Sec. 3. 12 V.S.A. § 4853a is amended to read:

15 § 4853a. PAYMENT OF RENT INTO COURT; EXPEDITED HEARING

16 \* \* \*

17 (b) ~~A~~ If the court determines that a hearing is necessary, it shall hold a  
18 hearing on the motion shall be held any time after 10 days' notice to the  
19 parties. If the tenant appears at the hearing and has not been previously  
20 defaulted, the court shall not enter judgment by default unless the tenant fails  
21 to file a written answer within 10 days after the hearing. Any rent escrow

1 order shall remain in effect notwithstanding the issuance of a default judgment  
2 but shall cease upon execution of a writ of possession.

3 \* \* \*

4 (h) If the tenant fails to pay rent into court in the amount and on the dates  
5 ordered by the court, the landlord shall be entitled to judgment for immediate  
6 possession of the premises. The court shall forthwith issue a writ of possession  
7 directing a police officer or constable of the municipality or the sheriff of the  
8 county in which the property, or a portion thereof, is located to serve the writ  
9 upon the defendant and, no sooner than ~~five~~ three days after the writ is served,  
10 or, in the case of an eviction brought pursuant to 10 V.S.A. chapter 153, 30  
11 days after the writ is served, to put the plaintiff into possession.

12 Sec. 4. 12 V.S.A. § 4852 is amended to read:

13 § 4852. MODE OF PROCESS; DECLARATION; TRIAL BY JURY

14 (a) The complaint shall describe the lands or tenements in question, state  
15 that the defendant is in possession of them, and that the tenant holds  
16 unlawfully and against the right of the plaintiff. A copy of the rental  
17 agreement, if any, and any notice to terminate the defendant's tenancy shall be  
18 attached to the complaint.

19 (b) The process may issue as a summons or writ of attachment, requiring  
20 the defendant to appear and answer to the complaint of the plaintiff ~~which shall~~  
21 state that the defendant is in the possession of the lands or tenements in

1 ~~question (describing them), which the tenant holds unlawfully and against the~~  
2 ~~right of the plaintiff. A copy of the rental agreement, if any, and any notice to~~  
3 ~~terminate the defendant's tenancy shall be attached to the complaint. The~~  
4 ~~defendant's answer shall be verified under oath or supported by an affidavit~~  
5 ~~setting forth particular facts in support of it. Knowingly providing a false~~  
6 ~~statement in a verified answer or affidavit submitted pursuant to this subsection~~  
7 ~~shall constitute false swearing in violation of 13 V.S.A. § 2904.~~

8 (c) Either party shall have the right to a trial by jury.

9 Sec. 5. REPEAL

10 2008 Acts and Resolves No. 125, Sec. 1 (amending 12 V.S.A. § 4853a(a))  
11 is repealed.

12 Sec. 6. EFFECTIVE DATE

13 This act shall take effect on July 1, 2016.